

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

FRANCISCO ANTONIO PALIN-ROSARIO,

Defendant.

No. 21-cr-751 (RA)

MEMORANDUM
OPINION & ORDER

RONNIE ABRAMS, United States District Judge:

On March 1, 2024, Defendant Francisco Antonio Palin-Rosario filed a motion to dismiss the indictment, Dkt. 21, which charged him with one count of illegal reentry in violation of 8 U.S.C. § 1326(a) and (b)(2). The motion raised a single argument: that Section 1326 violates the equal protection clause of the Fifth Amendment because it was “enacted with explicit and vicious racial animus against Latinos.” *Id.* at 1. Because an appeal raising that exact issue was pending before the Second Circuit, *United States v. Suquilanda*, No. 22-1197, the Court held the motion in abeyance pending a decision in that appeal.

On September 13, 2024, the Second Circuit issued its opinion in *Suquilanda*, holding that Section 1326 does not violate the Fifth Amendment’s equal protection guarantee. *See United States v. Suquilanda*, 116 F.4th 129, 144–45 (2d Cir. 2024). The Circuit then denied that defendant’s petition for rehearing *en banc* on January 7, 2025.

Suquilanda expressly forecloses Palin-Rosario’s motion here, given its holding that “§ 1326 does not violate the Fifth Amendment.” *Id.* at 145. Because that is now the binding law of this Circuit, Palin-Rosario’s motion to dismiss the indictment is denied.

SO ORDERED.

Dated: February 20, 2025
New York, New York


Ronnie Abrams
United States District Judge